

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Koichi EBATA

Title: RADIO NETWORK MONITOR
DEVICE AND MONITOR
SYSTEM

Appl. No.: 10/588,456

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Examiner: Mapa, Michael Y.

Art Unit: 2617

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Number:

PRE-APPEAL BRIEF REQUEST FOR REVIEW

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Commissioner for Patents
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Sir:

In accordance with the Pre-Appeal Brief Conference Pilot Program, announced July 11, 2005, this Pre-Appeal Brief Request is being filed together with a Notice of Appeal.

REMARKS

In the Final Office Action of June 19, 2009, the Examiner asserted that the arguments presented in the Amendment and Reply of March 23, 2009 were not persuasive and therefore maintained the rejection of claims 1-5, 7-11, 13-19, and 21-25 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 7,362,742 to Siddiqi et al. (“Siddiqi”). In addition, the Examiner maintained the rejection of claims 6, 12, 20, and 26 under 35 U.S.C. § 103(a) as being

unpatentable over Siddiqi in view of U.S. 2005/0060574 to Kime et al. (“Kime”). For at least the reasons set forth below, Applicant respectfully submits that these rejections are improper and should be withdrawn.

I. Synchronizing two subnet mapping tables is not the same as extracting an address of which a transfer destination is a wireless interface.

Independent claims 1 and 2 require “means configured to receive packet transfer information retained in said access point and extract an address of which a transfer destination is a wireless interface from said packet transfer information.” (Emphasis added). Independent claims 7, 8, 15, 16, 21, and 22 require similar features. On page 6 of the Final Office Action, the Examiner asserted that Siddiqi discloses this feature and broadly cited to Fig. 6; col. 4, line 65- col. 5, line 6; col. 6, lines 20-25; col. 7, lines 55-61; col. 9, lines 15-24; col. 9, lines 37-45 of Siddiqi. (*See*, page 6 of Final Office Action). Applicant has thoroughly reviewed each portion of text and does not agree with the Examiner’s assertion.

The cited text discusses that an authoritative access point (AAP) receives a subnet mapping table from another AAP and updates its own mapping table if there are new active access points (AP) listed in the received mapping table. (*See, e.g.*, col. 4, line 65- col. 5, line 6; col. 6, lines 20-25; col. 7, lines 55-61; col. 9, lines 15-24; col. 9, lines 37-45 of Siddiqi.) For example, Siddiqi states that “an AAP obtains the subnet mapping table of other AAPs” and “[i]f there are additional items in the received subnet mapping table that are not in the receiving AAP’s subnet mapping table, the AAP will add that AP entry to its table after confirming that the AP identified in that entry is still alive.” (*See*, col. 4, line 65 – col. 5, line 3). Because this disclosure provides no express or inherent teaching related to extracting an address of which a transfer destination (e.g., a transfer destination port) becomes a wireless interface, Applicant respectfully submits that Siddiqi cannot properly anticipate independent claims 1, 2, 7, 8, 15, 16, 21, and 22, and therefore the rejection should be withdrawn.

II. Determining that an AP is alive/active is not the same as determining that a terminal is a subordinate of an AP.

Independent claims 1 recites “estimating means for estimating that a terminal having said extracted address exists as a subordinate of the access point retaining said packet transfer information.” (Emphasis added). Independent claims 7, 15, and 21 recite similar features. In addressing these features, the Examiner broadly cited to Fig. 4; col. 5, lines 1-7; col. 7, lines 40-41 and 55-61; and col. 8, lines 25-34. (*See*, page 6 of Final Office Action). Applicant has thoroughly reviewed each portion of text and submits that there is no discussion about determining that a terminal is a subordinate of an AP. In fact, the cited text does not even mention a terminal. At best, Siddiqi mentions that an “AAP will add that AP entry to its table after confirming that the AP identified in that entry is still alive.” (*See*, col. 5, lines 2-3). However, determining that an AP is alive is different than determining that a terminal is a subordinate of a AP. In particular, the discussion in Siddiqi relates to the relationship between an AP and an AAP. In contrast, the claim feature relates to the relationship between a *terminal* and an AP. Because a discussion pertaining to the relationship between an AP and an AAP cannot be considered to be the same as the relationship between a terminal and an AP, Applicant respectfully submits that Siddiqi does not disclose this claim feature and therefore does not properly anticipate independent claims 1, 7, 15, and 21.

III. Determining that an AP is alive/active is not the same as determining that the terminal having the extracted address has a connection to the AP retaining the packet transfer information.

Claim 2 recites “a determining means for investigating an operation situation of a terminal having said extracted address to determine that said terminal having said extracted address has a connection with the access point retaining said packet transfer information in a case where said terminal having said address is in operation.” (Emphasis added). Independent claims 8, 16, and 22 recite similar features. In addressing these claim features, the Examiner asserted that this feature was disclosed at Fig. 4; col. 5, lines 1-7; col. 7, lines 40-41 and 55-61; and col. 8, lines 25-34 of Siddiqi. (*See*, page 8 of Office Action). Applicant respectfully disagrees. The

cited text mentions that an “AAP will add that AP entry to its table after confirming that the AP identified in that entry is still alive.” (*See*, col. 5, lines 2-3). The cited text does not mention a terminal. Moreover, the cited text does not mention anything about determining that a terminal has a connection with an AP. The cited text merely relates the relationship between an AP and an AAP and cannot be properly interpreted to relate to the relationship between a terminal and an AP. Therefore, Applicant respectfully submits that Siddiqi cannot properly anticipate independent claims 2, 8, 16, and 22.

Conclusion

In view of the foregoing, Applicant respectfully submits that the Examiner has not properly set forth a *prima facie* case of anticipation with regard to independent claims 1, 2, 7, 8, 15, 16, and 21. Therefore, Applicant respectfully request that the panel reverse the pending rejection of the independent claims as well as their respective dependent claims.

Respectfully submitted,

By 

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